

**Chapter 246-215 WAC
Food Service
Proposed Revision
July 14, 2004**

Issues Receiving Significant Stakeholder Input

(Issues are in alphabetical order)

ISSUE	DOH RECOMMENDATIONS TO THE SBOH	COMMENTS
<p>Bed and Breakfast Operations</p> <p>The FDA Food Code exempts bed and breakfast inns from regulation if food service is limited to breakfast for overnight guests and the facility has no more than 6 guest rooms. Existing state rules provide limited exemption from some rule provisions.</p>	<p>Exempt bed and breakfast inns from many provisions of the regulations if meal service is limited to breakfast for overnight guests and the facility has no more than 8 guest rooms. Newly licensed operations with more than 8 guest rooms or with more meal service than breakfast would need separate commercial kitchen for guest food preparation.</p>	<p>Comments were received from members of the bed and breakfast industry that limiting meal service to breakfast would restrict their ability to operate in remote areas.</p> <p>Comments were received from other members of the food service industry that allowing bed and breakfast operations to serve more meals than breakfast without a proper commercial kitchen presented unfair competition for other food service establishments.</p>
<p>Cold Holding</p> <p>The FDA Food Code lowers the cold holding temperature from 45°F to 41°F and allows a 5-year grace period for replacing equipment that cannot maintain this lower temperature.</p>	<p>Adopt FDA Food Code language regarding cold holding.</p> <p>This includes the 5-year grace period for equipment unable to maintain the colder temperature.</p>	<p>All stakeholders support the move to lower the cold holding temperature.</p> <p>Regarding the 5-year grace period, some food industry representatives requested that it be longer or indefinite, because some older equipment cannot maintain temperatures of 41°F or less and have a effective life of over 5 more years.</p> <p>Not allowing cold holding at the higher temperature beyond the 5-year grace period will improve public health protection and simplify training and compliance.</p>

ISSUE	DOH RECOMMENDATIONS TO THE SBOH	COMMENTS
<p>Consumer Advisory</p> <p>The FDA Food Code requires raw or undercooked meat, eggs, and aquatic foods, when sold or served as ready-to-eat, to be both identified as undercooked (disclosure) and identified as being a higher health risk for high risk individuals (reminder).</p> <p>Under the current state rules, these foods (plus unpasteurized juice) must simply be identified as being undercooked (disclosure).</p>	<p>Adopt the FDA Food Code language requiring both a disclosure and reminder, and add "unpasteurized juice" to the list.</p>	<p>This "reminder" provision will be new in Washington and will be the most visible change in the code to the consumer.</p> <p>Menus, as applicable, will need to be revised to add the health impact "reminder" statements. The reminder provides additional public health protection by simply explaining the increased risk posed by the food.</p> <p>A more informed public should result in fewer illnesses caused by pathogens that can be in these food items.</p>
<p>Effective Date of New Code*</p> <p>Some LHJs have requested a delayed start up date to allow for local adoption processes and preparation time to implement the new code.</p>	<p>Adopt proposed rules with a May 2, 2005 effective date.</p>	<p>A May 2, 2005 effective date will provide 4–6 additional months for:</p> <ul style="list-style-type: none"> • Adoption of local ordinances implementing the rules • Changes to databases and electronic inspection systems • Developing new inspection form • Developing new food worker card manual, video, and exam • Training of inspectors • Training of food industry <p>Food service industry requests a start up date as early as practical.</p>
<p>Farmers Markets</p> <p>The current state rules are unclear whether farmers are exempt from all food safety rules or just from permitting requirements.</p> <p>Also, farmers markets are recurrent events that do not fall into the existing definitions of temporary or permanent food establishments and thus pose a permitting challenge for LHJs.</p>	<p>The code will clarify which types of food service facilities and operations are exempt from the food safety rules and which may be exempt from permit by LHJs.</p> <p>The definition of "temporary food establishment" will be revised to include facilities operating for three days or less per week, which will include vendors at most farmers markets.</p>	<p>While a few vocal members of the public would like to see everything produced by a farmer exempt from food safety regulations, the Core Workgroup agreed to exempt only certain items.</p> <p>The exemption of particular low-risk foods benefits industry by eliminating the need to obtain permits. LHJs and public health benefit by focusing limited resources on higher risk operations.</p> <p>Revising the definition of "temporary food establishment" to include recurrent events will be beneficial for both the industry and the LHJs by adding clarity to the permitting category of farmers markets and similar operations.</p>

ISSUE	DOH RECOMMENDATIONS TO THE SBOH	COMMENTS
<p>Potlucks*</p> <p>Should publicly advertised potlucks be exempt from code?</p> <p>Under the current state rules and the FDA Food Code, it is unclear how/if they should be regulated.</p>	<p>Exempt non-commercial potlucks from the regulation.</p> <p>Potlucks will be defined.</p>	<p>The FDA Food Code does not address potlucks.</p> <p>A large number of public comments overwhelmingly favored allowing all potlucks to be exempted.</p>
<p>Time as a Public Health Control</p> <p>The FDA Food Code allows potentially hazardous foods to be displayed for service for 4 hours without temperature control (requires a written plan, time marking, and discard at end of holding period).</p>	<p>Adopt the provision allowing time as a public health control as written in the FDA Food Code.</p>	<p>This provision will be new in Washington.</p> <p>Many LHJs are concerned about this provision. Concerns include:</p> <ul style="list-style-type: none"> ◆ A small margin of safety, ◆ The potential for abuse, ◆ A possible lax attitude about temperature control, and ◆ A contradictory message for consumers about the importance of food temperature control. <p>Other states have adopted this provision with few concerns to date. Properly implemented, public health will be adequately protected.</p>

** The final recommendations for the effective date of the code and potlucks were developed by DOH.*

The final recommendations for the remaining issues are the same as the recommendations developed by the core workgroup.